

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
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DALLAS, TEXAS 75202-2733

August 26, 2003

VIA FIRST CLASS MAIL

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RE: DRAFT Administrative Order on Consent (AOC) for Removal Action in the matter of
Falcon Refinery Superfund Site, San Patricio County, Texas

Mr. Bergner:

Pursuant to our phone conversation, EPA looks forward to meeting with you, your client and other representatives on Thursday, September 11, 2003 in connection with the Falcon Refinery Superfund Site (Site). Please let me know a time on Thursday, September 11 that is convenient for you and your group so that I may make the necessary arrangement here.

As I indicated to you, EPA has developed a DRAFT AOC which is intended to incorporate terms for the voluntary removal action which is underway at the Site. Although the On Scene Coordinator (OSC) has had some contact with contractors at the Site with respect the performance of specific tasks taken under the voluntary action, it is very important that the OSC assume the traditional oversight role in a removal action at a Superfund site. Only a formal document specifying the terms of the removal action will satisfy that necessary role of an OSC.

I am enclosing an informal copy of the DRAFT Removal AOC for your early consideration. Enclosed also is the Action Memorandum dated August 12, 2003. Although this AOC follows the *Revised Model Administrative Order on Consent for Removal Actions*, it has not received the concurrences from the appropriate EPA managers, and is intended only to inform you of likely EPA terms in a Removal AOC involving the Site. You can expect a formal transmittal of a DRAFT Removal AOC action under the signature of a manager in the very near future. We look forward to commencing a discussion concerning establishing more formal terms for the on-going voluntary action at the Site at the September 11 meeting.

The meeting on September 11 must involve measures in the Administrative Order on Consent for the Remedial Investigation and Feasibility Study, (RI/FS Order, as well. Although we understand that, at this initial meeting concerning the remedial measures for the Site, your client is not prepared to present a redline/strike-out version of the RI/FS Order, I am hopeful that we can discuss in general terms the RI/FS Order.

It is EPA's goal to formalize concurrently the Removal AOC and the RI/FS Order because in the opinion of EPA's technical staff connected to this Site, the removal action and certain tasks in the RI/FS Order can occur simultaneously. One option, for example, is to divide the Site into two operable units (OU1 and OU2). The soils, for example, could be addressed during the removal action and under an operable unit to be specified in the RI/FS Order. Also, the surface water, ground water, and sediments can be addressed in an operable unit under the RI/FS in a manner that would not interfere with an on-going removal action.

Your continued cooperation in this matter is appreciated. If you have any questions, please do not hesitate to contact me at 214-665-3193.

Sincerely,

Gloria Moran
Assistant Regional Counsel

Enclosures